THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.19545 OF 2007

DATED: 14-09-2007

BETWEEN

Gudepareddy Hanumantha Reddy,
S/o. Kona Reddy, R/o. Sultanpet,
H/o. Narpala, Ananthapur District.

...PETITIONER

AND

The Tahsildar (MRO),
Bukkaraya Samudram Mandal,
Ananthapur District and others.

...RESPONDENTS

ORDER:

Petitioner questions the order of the Government Revenue (Assn.V) Department passed by the Special Chief Secretary to Government, Revenue Department in Proceedings No.61013/Assn.V (2)/2005 dated 04.04.2007 in confirming the orders of the Joint Collector as well as the Chief Commissioner Land of Administration.

2. A perusal of the aforesaid order goes to show that an extent of Ac.2.50 cents in Sy.No.463-2 situated at Chennampalli Village,
B. K. Samudram Mandal, Ananthapur District was originally assigned in favour of Harijana Pinnadari Pedda Narayana and subsequently he relinquished his right over the land and the land was resumed by the Government and re-assigned in favour of the petitioner vide order dated 01.03.1986 by the then MRO, B.K. Samudram. Against the said resumption, Harijana Pinnadari Pedda Narayana and his brothers viz. Harijana Pinnadari Nadipi Narayana, Harijana Pinnadari Chinna Narayana, Harijana Pedda

Rangaiah and Harijana Chinna Rangaiah filed an appeal before the Joint Collector on the ground that the said Harijana Pinnadari Pedda Narayana is mentally retarded person and the said land is in actual possession of his brothers. Accordingly, the Joint Collector after enquiry directed the Mandal Revenue Officer to assign the said land in favour of the four brothers of Harijana Pinnadari Pedda Narayana vide proceedings dated 03.07.1987. Against the said order the petitioner filed a revision before the Chief Commissioner of Land Administration and the said revision was dismissed by order dated 11.08.1989 upholding the orders of the of the Joint Collector. Thereafter, against the said order, petitioner filed a revision before the Government and the Government by order in G.O.Ms.No.603 Revenue (Assn.IV) Department dated 02.07.1993 dismissed the revision petition. The petitioner questioned the said order of the Government in W.P.No.14277 of 1994 and this Court by order dated 25.08.1994 disposed the writ petition directing the Government to give reasonable opportunity to both sides and pass appropriate orders. Pursuant to the said remand order the Government heard and passed the impugned order.

3. The undisputed facts are that the said land was originally assigned in favour of Harijana Pinnadari Pedda Narayana vide proceedings No.DR.Dis.619/81 dated 20.01.1972. However, it is not known when the said assignment order was resumed but further proceedings go to show that the said land been re-assigned in favour of the petitioner by order dated 01.03.1986. As the unofficial respondents 5 to 8 were in continuous possession and enjoyment of the said land, they filed an appeal before the Joint Collector and the Joint Collector while allowing the appeal directed the MRO to assign the land among the fourth brothers of Harijana Pinnadari Pedda Narayana by order dated 03.07.1987. Against the said order petitioner filed a revision before the Chief Commissioner of Land Administration, who dismissed the revision by order dated 11.09.1989. Aggrieved by the said order the petitioner filed a revision before the Government and the Government dismissed the same vide order in G.O.Ms.No.603 dated

02.07.1993. As the petitioner was not heard while disposing the revision, this Court while setting aside the order of the Government directed to hear the petitioner and dispose the same.

4. A perusal of the impugned order goes to show that the petitioner was heard on 16.12.2006 and in fact, the petitioner was present though his Advocate. The assignment was made on payment of market value of Rs.400/- per acre whereas the petitioner has not paid any amount; therefore, there was no proper assignment in the eye of law.

5. However, I am of the opinion that the cancellation of assignment was without any justification whatsoever and consequential re-assignment orders in favour of the petitioner is not fair and property. The unofficial respondents were in possession of the land as on the date of resumption. Under Section 4(1)(b) of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (for short 'the Act') even if there is any contravention in respect of any assigned land, the land has to be restored in favour of the original assignee or his legal heirs, as the case may be. As the assignment was made to the landless poor and when the legal heirs are in possession of the said lands, I am of the opinion that the Joint Collector rightly re-assigned the said lands in favour of the four brothers of Harijana Pinnadari Pedda Narayana. There is no material whatsoever with regard to the particulars of the petitioner whether he is a landless poor. Therefore, in view of the aforesaid facts and circumstances of the case and as all the authorities have held against the petitioner, I am not inclined to admit the writ petition.

The writ petition is accordingly dismissed. There shall be no order as to costs.

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V. ESWARAIAH, J

September 14, 2007
DSK